

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLARENCE BECKS,

Defendant.

8:18CR81

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's third "Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) (Compassionate Release)," ECF No. 48. The Defendant submitted his first such motion, *pro se*, on August 9, 2019, ECF No. 36. The Court concluded that the Defendant had exhausted his administrative remedies and that the Court had jurisdiction to consider the motion. Nonetheless, the Court denied the motion for the reasons stated in its Memorandum and Order of August 14, 2019, ECF No. 38. The Defendant moved for reconsideration, ECF No. 39, and that motion was denied, Order at ECF No. 40. The Defendant's second Motion was submitted through counsel, and it raised concerns about Defendant's potential exposure to coronavirus, although at that time there had been no cases of coronavirus among any inmates or staff members at the facility where the Defendant was housed. ECF No. 42. That Motion was also denied. See Memorandum and Order, ECF No. 46. The pending Motion raises new concerns because of newly diagnosed cases of coronavirus in the Defendant's facility.

The Court provided the following background in its earlier Memoranda and Orders, ECF Nos. 38 and 46, which is still applicable:

The Defendant pled guilty to Count I of the Indictment, charging him with distribution of five grams or more of actual methamphetamine. He was

sentenced on September 25, 2018, to a term of 70 months incarceration, followed by four years of supervised release. His plea and sentence were pursuant to a Rule 11(c)(1)(C) plea agreement that provided the Defendant with several benefits: His stipulated sentence was 30 months below the low end of the Sentencing Guideline range, and the Government agreed to dismiss Count II of the Indictment which charged the Defendant with possession with intent to distribute five grams or more of actual methamphetamine, an offense also carrying statutory penalties of five to forty years' incarceration.

At the time of sentencing, the Presentence Investigation Report and Sentencing Recommendation both made clear the fact that the Defendant was disabled and suffered from a variety of serious medical and mental health issues, including multiple sclerosis, diabetes, anxiety, and depression. Those conditions were taken into consideration by the Court when it accepted the parties' plea agreement and the stipulated sentence.

ECF No. 38 at Page ID 139-40.

The Defendant is housed at the Medical Center for Federal Prisoners (MCFP) in Springfield, Missouri. As of the date of this Memorandum and Order, three inmates at that facility have tested positive for the coronavirus and one has since recovered. See <https://www.bop.gov/coronavirus/>.

The Defendant's pending Motion will be denied for the same reasons stated in the Court's Memoranda and Orders of August 14, 2019, ECF No. 38, and May 22, 2020, ECF 46.

IT IS ORDERED:

Defendant Clarence Becks's Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) (Compassionate Release)," ECF No. 48, is denied.

Dated this 28th day of July 2020.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge